

mechanical injuries occurring during the course of labor, delivery or resuscitation in the immediate post-delivery period.

The program provides the exclusive remedy for qualified claimants against participating physicians and/or participating hospitals, except in cases involving international or willful acts. Upon a determination that the infant qualifies for compensation through the program, damages may be awarded for certain actual medically necessary and reasonable expenses, loss of earnings from age 18 through 65, and reasonable expenses incurred in connection with the filing of the claim for compensation through the program. One form of compensation sometimes provided is the rent-free use of a residence that is specially equipped to accommodate the needs of the child. No punitive damages are awarded, and no compensation is awarded for pain and suffering, emotional distress or mental anguish.

In 1994, at the request of one of the families receiving compensation, the program prepared and submitted a private letter ruling request to the IRS requesting a ruling that the rent-free use of a residence provided by the program could be excluded from taxable income by the infant and his family under section 104(a)(2) of the Internal Revenue Code. Section 104(a)(2) of the code provides "gross income does not include the amount of damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness . . .". A favorable ruling was eventually obtained.

Because a private letter ruling may only be relied upon by the taxpayer to whom it is issued, another Virginia family that subsequently applied for compensation requested that the program submit a private letter ruling request to its behalf as well. A ruling request was prepared and submitted; however, in this instance, the IRS was unwilling to issue a favorable ruling excluding the benefits under section 104(a)(2) of the Code. It was the IRS' position that section 104(a)(2) only applied to damages received on account of traditional tort or tort-type rights. Because the Virginia Neurological Injury Compensation Act is a "no fault" statute and because the full range of traditional tort remedies (i.e., compensation for pain and suffering, emotional distress or mental anguish) is not available, the IRS took the position that the right to compensation through the program is not a traditional tort or tort-type right and, accordingly does not qualify for exclusion under section 104(a)(2).

Fortunately, the IRS eventually issued a favorable ruling on the basis that the program is an arrangement having the effect of accident or health insurance and that the benefits received from the program are excludable by the infant under section 104(a)(3) of the Code. However, the ruling is limited to benefits received by the infant. The IRS specifically declined to issue a ruling regarding the taxation of benefits received by the infant's family. I believe that classifying the program as an insurance arrangement under section 104(a)(3) is an indirect and perhaps temporary way of addressing the problem.

I believe the compensation received from the program is within the intent of exclusion under section 104(a)(2). Without the legislation I am introducing today, the IRS could make good on its threat to tax the benefits received under the program. Such action would have a

disastrous effect on the families which receive benefits, as taxes would significantly diminish the relief provided by the program unless the program agreed to compensate the families for the additional tax incurred. The reimbursement of the taxes incurred on an after-tax basis would almost double the cost of the relief provided by the program.

My legislation would ensure that Virginia families, who have already been visited by tragedy, could continue to receive benefits on a tax-free basis. The legislation would amend section 104(a)(2) to exclude from gross income payments received under this program. It is the right thing to do, and I urge the House to consider this legislation this year.

PEIRCE COLLEGE COMMENCEMENT
ADDRESS BY THE HONORABLE
MARJORIE O. RENDELL, THURSDAY,
MAY 14, 1998, PHILADELPHIA,
PENNSYLVANIA

HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. FATTAH. Mr. Speaker, I am submitting for the record a recent speech given by the Honorable Marjorie O. Rendell, Judge of the U.S. District Court of Appeals, on the occasion of the recent commencement at Peirce College, in my Congressional district.

PEIRCE COLLEGE COMMENCEMENT ADDRESS BY
THE HONORABLE MARJORIE O. RENDELL

This is not my first graduation address, so I was not surprised when Dr. Lendo made an appointment to discuss with me the attributes of the school and the class that I should be aware of. He started by saying, "We're not your normal college," and twenty minutes later, I had the picture.

This is not your normal college. I have no intention of talking about you going out into the world. You are the world. I will not liken your school environment to a cocoon because you have all clearly left that developmental stage long ago.

I was quite taken by Dr. Lendo's description of the class and realized how distinctly different my address would have to be from a "traditional" commencement speech. My mind started working overtime, and I awoke at 6:00 a.m. the next morning with the wheels a-turning (My horoscope that day, I later discovered, said that I would be a steamroller. We've all had days like that—and some not quite like that.)

In any event—and this is the truth,—three songs from my past came to mind, songs that set the tone and frame the content of what I want to impart today.

I will take Dr. Lendo's description as gospel, and assume that most of the graduates have "been there, done that". In that we have a common ground (You don't get to age fifty without having "been there", and having "done that.") So allow me to share with you some thoughts about how wonderful you should feel about your arrival at this moment with many accomplishments and experiences tucked in your pockets and finally, the diploma in hand.

The first song is a children's song, "The Bear Went Over the Mountain." It goes like this: The bear . . . and whaddya think he saw; he saw another mountain, he saw another mountain. . .

You do not know until you get to the top of that mountain what you will see. Now, I take issue with the bear seeing only another

mountain ahead of him. I think the look back down the mountain is rather nice. In fact I tell mothers struggling with career and kids and the fun that entails, that these times are tough, but, believe it or not, they're really great to look back upon. It's fun to look back upon juggling the sick child, the busy husband, the demanding client, the needy parent, the barking dog—all needing you at once. Tough going up the mountain, for sure, but much easier to look back down.

I find that life is a mountain, with two sides. The first part, the trip up, is largely trial and error, while at the top, you stop, take a breath, appreciate your accomplishment, and start down, with the rest being somewhat easier due to what you've learned. Being at the top is fun . . . and many of you are there today.

Now, the bear did see other mountains ahead, so the trip down may not be the end of it, but I urge you to stop and enjoy, take pride not only in the fact that you arrived, but on how you got there. All the trials and tribulations, the trailblazing and exploration of uncharted territory that Dr. Lendo spoke of, the "going it aloneness" of what you did, these should bring a rush, a sense of satisfaction and accomplishment. Bask in it today, for tomorrow there's, as they say, the rest of the journey!

The second phrase is from a popular song "I can see clearly now".

I can see clearly now the rain is gone
I can see all obstacles in my way
Gone are the dark clouds that had me blind*
It's gonna be a bright, bright sunny day

*[Here is that rainbow I've been praying for]

Wait a minute. This guy's as bad as the bear. He sees the obstacles clearly and it's going to be a bright day? What's his problem? Well, again, seeing your problems clearly, as compared to not being able to see them at all, or having a less than clear picture of what lies ahead is not all that bad. All of us have our struggles, whether financial, health, family issues, frustrations, and setbacks. Education, pride and confidence enable us to deal with them. The knowledge that comes from what you have learned in the classroom and in life helps you deal with what you must confront.

I have always liked the passage from the Bible, "When I was child, I spoke as a child, I understood as a child, I thought as a child; but when I became a man I put away childish things. For now we see as in a mirror, dimly, but then I shall know just as I also am known" Your life experiences and your education give you the kind of self-knowledge that is rewarding and satisfying in and of itself.

When I was interviewed for the position of judge, someone asked me, "What in your background has prepared you to sit in judgment on others and make solitary decisions that will affect people's lives?" It was a very good question. My response was:

First, I have raised a child;

Second, I have experienced political campaigns which, truth be told, prepares you to single-handedly withstand World War III; and

Third, I have been a female bankruptcy lawyer, in a profession in which females, let alone female bankruptcy attorneys, have not always been, shall we say, welcomed.

In any event, I interpreted the question as, "What has formed your insides", and those were my thoughts. As Dr. Lendo has spoken of today, we've got some well-developed insides here today. I don't need to tell you that the things you confront that are burdensome are nonetheless opportunities; you know that. I don't need to tell you that your families are proud of you today, that's already part of you. Take some satisfaction in what

has formed your insides, because today it's written all over your face.

Another memorable question (and I know you're waiting for the third song, which I'll get to) was posed to me by the mother of one of Jesse's friends. We had taken the boys on a short ski trip—husbands not invited—and were preparing dinner. We were talking about family, kids, work and juggling—what else—and she asked me, "What sustains you?" I was taken aback; I'd never really thought about being sustained, let alone what did it. I thought a minute and replied, "love of those around me". When it comes right down to it, the love and support of those around us provides the sustenance for us to go on and do what we do.

The point of sharing these two questions and answers is that the self-knowledge—the seeing clearly, even of obstacles, that you are capping off with your diploma today is a reward in itself. Obstacles seen through the rainbow of the light of knowledge are manageable. Take a few minutes over the next week and ask your self these questions—what has formed you, and what sustains you?—and you will take great pride I am sure in your answers, and appreciate even more this great day.

Now for the third song. I actually sang this at a fundraiser for Bill Gray. It was at the Franklin Institute. The acoustics were bad, and everyone kept talking during the speeches. No one could hear the speakers, who were praising Bill for his years in Congress, as he was retiring to head the United Negro College Fund. So I decided to sing, and I sang "Oh, the Lord Is". I thanked Bill for using the tools God had given him to benefit us all. But I thought of doing this because this song is my joyful tune. It gives glory, yet has humility in it. It says that all we need, Lord, is the tools, just give us the tools and we'll do the rest. We'll do the hard work, sweat the sweat, take the time, apply the creativity, nurture, plant, prune, water, and cause the tree to grow. Give us the brains, the brawn, the fortitude, the courage, the hope, and we'll do the rest.

And, when I would leave a college exam on which I had guessed right as to what was going to be asked, I thanked God for the tools. And after a fairly short and very successful childbirth, I thanked God for the tools.

Well, today, I do hope you, too will take the time, to look around at all you have accomplished, at the people who have sustained and supported you, at the year you have put into doing all the things that wear you down and yet build you up, and give thanks for the tools.

HONORING MARJORIE
HIRSCHBERG, POET AND ADVOCATE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. PALLONE. Mr. Speaker, it is my good fortune to represent Monmouth County, N.J., a beautiful, seashore county that produced our current Poet Laureate, Robert Pinsky.

Another accomplished poet also called Monmouth County home. That was Marjorie Hirschberg who died last year at the age of 54, a victim of Amyotrophic Lateral Sclerosis or Lou Gehrig's disease.

Before succumbing to that most vicious, crippling disease, Marjorie wrote poetry on her computer, touching her cheek to a wand until she could no longer even move her head.

Her mother said that through all of this struggle, Marjorie exhibited a bravery and spirit that gave strength to everyone—mother, father, husband and children and enabled them to cope with her rapid deterioration. "Bravo, my child," said her mother in a recent letter to me.

Well, I want to say "bravo" too, for the excellent and moving poetry that Marjorie Hirschberg produced and I would like to share two of these poems with my colleagues. I would also like to include an article that appeared in the Atlanta Journal-Constitution that highlights some of her many other contributions to the arts, women and children. The poems follow:

MY WONDERFUL MOTHER IS EIGHTY TODAY

I would like to drive her through my neighborhood

Honking the horn to let everyone know
How proud I am of her.

Visit all my friends with her
Accepting tea and cake
Or turkish coffee

As tokens of their love and respect. Then

I would take her to lunch some place

Where the prices would scandalize her.

We will talk of bess as suffragette,

Of pearl and the coat and evey and the wagon. Sid

Sid and the store and millie's phone call on
January 1. And Bobby's announcement of joy
to the world.

Then we get to newborn Ethan in our shaker
bed, Elizabeth of the tumbling

Brown ringlets. Of eloping with the brown-
haired adonis who came to the door

All this while eating our fill, sharing two ex-
travagant desserts

Then rolling home,

Knowing the best daydreams

Have a life of their own.

OLD DOG

I watch you lying in the sun on your better
days

Old, tired bones soaking up what little
warmth

The universe still holds for an old dog.

Coat neglected, chewed, host to parades of

Unconquerable, merciless fleas.

And smelly, I do remember that,

An undeniable, ugly fact.

You really smell.

But I remember too how you did love

How children tumbled carelessly all over you
And got adoring looks and happy panting in
return.

Recall that day a wild curly-headed toddler

Made her break for the road

And you shepherded her like an old pro

Those deep, patient sighs from your position
as a rug

Waiting for me to walk you

And then when I could no longer walk

You wouldn't leave my side

Believing like me it would be any minute

That I would jump up and grab the leash.

You became a nuisance to the ones in charge

The smell, the bulk, the fleas

(since we are being honest here,

You always were part nuisance)

So now shuttled between solitary in the hall

And lonely pees in the yard,

You seem a bit defeated

Love hasn't conquered all

We've both seen better days.

Perhaps like me you live in hope that those
days will return

When neglect was just silly human foible

Not the result of grief and numbness

When much fuss would have been made

About your lying on the chaise lounge.

And you could dream each year

Of next Passover and its bone

When even you and I

Will welcome the messiah.

[From the Atlanta Journal-Constitution,
Feb. 26, 1997]

MARJORIE HIRSCHBERG, 54, ADVOCATE—
FOUGHT FOR RIGHTS OF WOMEN, KIDS

(By Malcolm X Abram)

Marjorie Hirschberg spent much of her adult life committed to helping others. As a homemaker, she watched over her family. As an advocate, she fought for the rights of women and children. And finally, as a victim of Lou Gehrig's disease, she underwent an experimental treatment in hopes of providing a future for herself and others.

Ms. Hirschberg, 54, died Saturday of respiratory failure related to Amyotrophic Lateral Sclerosis—the official name for Lou Gehrig's disease—at St. Joseph's Hospital. The funeral will be a 11 a.m. Sunday at Green Lawn Funeral Home.

Ms. Hirschberg was a native of New Jersey who graduated cum laude from Vassar and later received her master's degree in special education from Bank Street College of Education in New York.

When her family relocated to Atlanta, she briefly taught children with learning disabilities at the Atlanta Speech School before becoming a full-time homemaker, according to her husband, Dick Tauber of Atlanta.

"I was inspired by Marjorie. . . . She was the kind of woman and mother I would want to be," said her friend Audrey Galex. "I've tried to pattern myself after her because she had her priorities straight. Her family and the community came first."

Ms. Hirschberg's devotion to the community was well documented at her daughter Elizabeth's school, Sagamore Elementary, where she taught a special education class and worked with the PTA to bring in more arts-related programs.

Ms. Hirschberg was also active in women's rights issues. As a member of the National Council for Jewish Women, she lobbied for women's and children's rights at the Georgia Capitol. She also co-produced "Atlanta Women's Voices," a public access cable program that discussed issues of particular import to women.

"Something about her was very ethical," said friend and fellow lobbyist Sara Ghitis. "She was a gentle person who had everything about her in the right place."

Ms. Ghitis said that when Ms. Hirschberg found out about her disease, she was furious. "She said, 'I'm not ready to die with all the things I have yet to do in this world,'" Ms. Ghitis said.

When the disease began to severely limit her communication and motor abilities, Ms. Hirschberg sought alternative treatments. "Marjorie had a lot of courage to try this new procedure," said Mr. Tauber. "And she got to go to her son's graduation, which meant a lot to her."

"She told me that as long as I can see my kids, I want to remain alive," said Ms. Galex. "I lost a real role model."

Surviving in addition to her husband and daughter are her son, Ethan Hirsch-Tauber of Atlanta; her parents, Ada and Bernard Hirschberg of Red Bank, N.J.; and a brother, Robert M. Hirschberg of Tustin Ranch, Calif.

TRIBUTE TO RUSSELL PATTERSON

HON. KAREN MCCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to recognize Mr. Russell Patterson,